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## REPORTS



# NOTES OF THE WEEK

### Gambling and the Law

There is just one point on which all the controversial discussions about betting and gambling arrive at agreement. All are of opinion that the present state of the law is chaotic and out of date, that it works unevenly as between different classes, and that it cannot be enforced effectively because public opinion is not really behind it.

It is true that a few extreme opponents of gambling in all forms object to the proposals to alter the law, because they consider that it is wrong for the law to do anything that may facilitate betting and gambling or may appear to recognize it instead of condemning it. Most people, however, are prepared to approve of any improvements that can be made in the present law even though they may be among those who regard all forms of gambling as morally wrong. Even so consistent an opponent of gambling as Dr. Donald Soper was prepared to admit, in a broadcast discussion, that if the evil cannot be suppressed it is worth while to legislate about it so as to improve the present state of the law. On the same day an Anglican bishop was reported as expressing the opinion that betting was not morally wrong, but that it became wrong when carried to excess. This latter view is held by many people who regard gambling as in the same category as intoxicating drink: not evil in itself, but productive of great evil when indulged in to excess. We can be sure of some interesting, lively and instructive debates in Parliament.

### Guardianship of Infants

*Re H. an Infant* (*The Times*, November 6 and J.P. Supp. p. 53) was an appeal from an order of justices made under the Guardianship of Infants Acts concerning the custody of a child 11 years old. The mother had obtained a separation order against the father and had been given custody of this child. The mother died the next day, and the father became sole guardian. An elder sister, aged 21, applied to the justices to be appointed joint guardian, and the justices made an order accordingly. It was against this order that the father appealed.

The elder sister was engaged to be married and was awaiting a house. She and her father were stated to be on the worst possible terms.

Roxburgh J., in delivering judgment allowing the appeal and giving sole guardianship to the father, said that it could not be for the welfare of the infant that her joint guardians should be on the worst possible terms, and the justices had not given any reason why their order would be for the benefit of the infant. It appeared that the object was for the sister to be made joint guardian in order that she might be able to apply to be given the custody of the infant. Such a course could not be justified. The justices had not exercised their discretion rightly.

### Crime and Research

Sir Carleton Allen is not only a distinguished academic lawyer, but also a magistrate of experience, and he is never so pre-occupied with theories as to be unmindful of what is practical.

In a letter to *The Times* of November 11, he refers to the many research projects concerned with the causes and treatment of crime, and while in no way disparaging criminological research, he points out that its results vary considerably. "Sometimes it makes valuable discoveries, sometimes it provides helpful guidance for practical action, and sometimes it produces a ridiculous mouse from mountains of labour. In any case it takes a long time."

As Sir Carleton observes the programme set forth in the White Paper "Penal Practice in a Changing Society" must inevitably take a considerable time, and meantime Judges and magistrates have to do something—rough and ready no doubt in the eyes of detached theorists—to maintain the Queen's peace against its increasing hosts of enemies. As he sees it, the most pressing need has already been indicated by the Lord Chief Justice, the strengthening of our under-manned police forces, and he asks the question has any Government yet concentrated enough attention, energy and money on this lamentable gap in our defences? As to the cost, heavy though it would be, it would, in Sir Carleton's opinion, be

trifling by comparision with what crime now costs the country in maintenance of offenders, personal injury and spoliation of property.

The public is becoming gradually more interested in the new science of criminology, but remains sceptical about the value of some of the research work that is being undertaken. What the public is entitled to demand is that law and order must be upheld, and that immediate measures are required which cannot await the results of elaborate research. Methods may appear to be rough and ready, but they must be practical.

**Driving Within the Limits of One's Vision**

It was decided by the Court of Appeal in the case of *Morris* v. *Mayor, Aldermen and Burgesses of the Borough of Luton* that the proposition laid down in an earlier case that a person driving in the dark, if unable to stop within the limits of his vision, was guilty of negligence was not a general rule to be observed by all users of the road and that no principle should be extracted from it affecting other cases where the circumstances are different. The proper test, it was held, is that such cases have to be determined on their own particular facts.

The *Morris* case was one in which, during the blackout, a cyclist rode into an unlighted air raid shelter and suffered severe injuries. In the action the authority responsible for the shelter contended, relying on the earlier case, that the accident was due either to the cyclist riding at such a speed that he could not pull up within the limits of his vision or to his failing to keep a proper look-out.

We refer to this case because of the advice given in the October, 1959, issue of the *Essex County Constabulary Road Safety Bulletin*, under the heading "Fog and Accidents" as follows: "never drive at such a speed that you cannot pull up well within the distance you can see to be clear" and there is added the comment, "if we remember and practice the rule accidents will be greatly reduced."

Courts must, of course, pay due attention to the decision in the *Morris* case, but when a driver is charged with driving without due care and attention and his answer is, in effect, "I couldn't really see where I was going" there would seem to be an onus on him, at that stage, to explain why, if he could not see where he was going, he continued his journey. In other words how does he argue, in those circumstances, that he was driving with due care and attention. Each case must, of course, be determined on its own particular facts and it may well be for example that a driver who runs suddenly into a wall of fog out of a clear stretch of road cannot stop instantaneously and may be involved in a collision before he does stop. Here there is a reasonable explanation which, in the absence of some aggravating circumstance such as excessive speed, can be a complete answer. But the advice given in the *Accident Bulletin* is basically sound and should be followed by all drivers. Far too many, when conditions are bad, are prepared to take a chance and to hope for the best. They deserve no sympathy if the result is an appearance in court to answer a driving charge.

**School Crossing Patrol's Signals**

In the *Cheshire Observer* of October 31, there is a report of a case in which a van driver was summoned for failing to comply with the requirements of s. 2 (2) of the School Crossing Patrols Act, 1953, by not stopping when signalled to do so by a school crossing patrol. He was fined £5. The evidence was that the patrol, correctly dressed, gave her signal to enable children to cross the road, but the defendant did not stop.

We mention this case to call attention to the limited nature of the authority given to street crossing patrols. Section 2 of the Act provides that when between 8 *a.m.* and 5.30 *p.m.* children on their way to or from school are crossing or seeking to cross the road and a vehicle is approaching that part of the road a school crossing patrol shall have power, by exhibiting a prescribed sign, to require the driver of the vehicle to stop it. A driver so required to stop must cause his vehicle to stop before it reaches the place where the children are crossing or seeking to cross, and so as not to stop or impede their crossing, and must not move on again so long as the patrol continues to exhibit the sign. The maximum penalty for non-compliance is £20, and disqualification may be ordered on a third or subsequent conviction.

One sometimes sees school crossing patrols purporting to exercise a right to stop traffic to allow adults to cross the road, in particular to allow mothers who have escorted their children to school to re-cross the road on their way home. However laudable a patrol's object may be in seeking so to control traffic it seems to be quite clear from the wording of s. 2, *supra*, that their authority is confined to acting at those times (within the prescribed hours) when *children* on their way to and from school are crossing or seeking to cross the road. It is important that patrols should be fully aware of the extent of their authority and that they should not seek to act outside it.

**Not Entitled to Probation**

*The Guardian* of November 3, reported observations of the Lord Chief Justice about the use of probation. Before the Court of Criminal Appeal was the case of two young men who had been sentenced at quarter sessions to 12 months' imprisonment for breaking and entering and stealing property of the value of more than £400. Their ages were 24 and 22 respectively. They were men of previously good character.

Lord Parker said that young men of today seemed to expect probation, but it would be quite wrong in cases such as this. Taking into account that the appellants were penitent and regretted the disgrace they had brought on themselves and their families, the court would reduce the sentences to nine months.

This emphasizes the point that although the legislature has in recent times discouraged the imposition of prison sentences on first offenders it still remains for the courts to exercise a discretion and, reluctant though they may be, to impose such sentences where this is necessary in the interests of the public for the prevention of crime. Probation is not, and never has been, a right, and those who count on it because they are first offenders may have to suffer a shock. There is no such thing as being entitled to probation.

**Legal Aid**

The old saying that there is one law for the rich and another for the poor becomes less and less true as time goes on. Not many people are prevented by poverty from seeking legal remedies in the courts, and when the Legal Aid and Advice Act, 1949, is fully operative the position will be further improved. As far as criminal proceedings are concerned there is little or nothing wrong with the system of legal aid.

*The Guardian* recently reported an incident in which a Judge emphasized the excellence of our law. A man who had been for some weeks in prison for contempt of court in disobeying an injunction applied successfully for release and Marshall, J. told him that though he had run foul of the law it was the law which came to his

assistance and briefed counsel. This was said the learned Judge, a law which should be respected all round.

The application was made by counsel instructed by the Official Solicitor.

**Overruled**

The decision in *Sales-Matic, Limited* v. *Hinchliffe* [1959] 3 All E.R. 401, has removed all doubt about the effect of s. 21 of the Betting and Lotteries Act, 1934. The Divisional Court has ruled that this section is merely declaratory of the law and does not in itself create an offence.

The report has prompted a correspondent to ask us to make passing reference to this decision because, at one time, we took a different view of the effect of s. 21. The matter has now been put beyond doubt and we are mentioning it largely because of our correspondent's gracious phraseology. He says: "You were kind enough to express an opinion . . ." and it is gratifying to find our own views of any advice we give reflected thus, for we hope we have never claimed to be omniscient or appeared to be dogmatic in matters which were not free from doubt.

It would only be human to add that, from what our correspondent says further on, we are also gratified to find that we were in not undistinguished company in our opinion.

**Double White Lines**

The *Western Morning News* of October 12, contains a report of proceedings at a conference at Exeter (The South-West Federation of the United Commercial Travellers' Association) at which it was suggested that some councils are using double white lines much too freely, to quote one delegate they have gone "slap happy with the paint brush." It was pointed out that the real value of the double white line is its use as an indication of potential danger and that if it is used only where there is such danger drivers will welcome it and pay due respect to it. If, however, it is used somewhat indiscriminately its value will be considerably reduced because drivers will not know, if one may so express it, whether it really means what it says or not and some will be tempted to take a chance and to disregard it. It was suggested at the conference that in one county the double white line is being used on bends where visibility is perfectly good. We imagine that the suggestion here was that the double white line was not conveying any indication of special danger and was imposing an unnecessary restriction on the freedom of traffic to use the road to the best advantage according to existing traffic conditions.

We can see the point of the argument put forward, but we recognize that those responsible for these road markings may well have something to say in support of their decision whether to use the double white line at a particular place or not.

A correspondent calls our attention to another aspect of the matter. Magistrates, he says, have to give effect to the double white line by imposing suitable penalties on those who appear before them and are found guilty of improperly crossing the double white line. Is it possible to prevent magistrates taking into account whether, on the evidence available to them, the white line is one which appears to be really necessary in the interests of safety or whether it seems to serve no such purpose? Our correspondent refers to a particular bench where the justices take the view, being satisfied that the white lines in their division are necessary and well-placed, that failure to obey them is a serious matter meriting a penalty of at least £3, rising, in more serious cases, to £10. This is not an easy question, but it is very difficult for magistrates, in assessing the gravity of such an offence, to ignore the actual or potential danger involved and this does bring in a consideration of the road conditions and layout at the place where the offence occurred.

**Parking on the Offside**

The August, 1959, road safety bulletin issued by the Derbyshire constabulary calls attention to two matters in respect of which too many drivers are prone to do the wrong thing. The first is the very bad habit of parking at night on the offside of the road so that the car's lights give to other drivers a completely false impression. This is not only a dangerous and inconsiderate practice, it is also a direct contravention of reg. 90 (1) of the Motor Vehicles (Construction and Use) Regulations, 1955, which provides that, save in certain exceptional cases, "no person shall, except with the permission of a police officer in uniform, cause or permit any motor vehicle to stand on any road during the hours of darkness otherwise than with the left or near side of the vehicle as close as may be to the edge of the carriageway." The exceptions are set out in reg. 90 (2) and one of them is that reg. 90 (1) does not apply in a one way street.

The enforcement of reg. 90 (1) is, of course, primarily a matter for the police and if their many other duties permit they might well devote some time to it during the coming weeks when long hours of darkness, and mist and fog make the due observance of the regulation of even greater importance than during the summer. Courts can assist, when such cases come before them, by impressing upon drivers that this is not just one more stupid requirement with which they have to comply but a necessary provision in the interests of safety.

The other matter referred to in the bulletin is the need for drivers to give clear signals in good time and "*after signalling do not carry out your intended manoeuvre until it is safe to do so.*" So often a signal is used to mean "I am going to do so and so and you must wait," and this is a form of dangerous driving or, at the least, of driving without reasonable consideration for other road users which should be firmly suppressed when the occasion offers.

**Mentally Defective Young Persons**

There is some difference of opinion on the question whether a juvenile court has power to deal under s. 8 of the Mental Deficiency Act with a young person who is not an offender but is brought before the court as being in need of care or protection or beyond control. The section refers to a child who is liable to be committed to an industrial school, and the point is whether this reference is to be interpreted as now including young persons as well as children who are liable to be sent to an approved school. One opinion is that this is the correct construction, in view of the Interpretation Act and also s. 108 (3) of the Children and Young Persons Act, 1933. The other view is that it is too doubtful, and that a juvenile court should decline to make an order under s. 8, and should suggest that someone should present a petition to the judicial authority.

When Part V of the Mental Health Act, 1959 is brought into operation the point will no longer arise. Section 61 expressly brings in both children and young persons who are brought before a juvenile court under the provisions of ss. 62 and 64 of the Children and Young Persons Act, 1933, thus removing any cause of doubt.

# DUTCH PUBLIC ADMINISTRATION

[CONTRIBUTED]

During childhood most of us experienced being told that we were " double Dutch," usually to indicate that we had said or done something wildly contradictory or highly illogical.

Yet a visit to the Netherlands today, to study their methods of public administration and their way of life, is to encounter a people, perhaps because of their Teutonic origins, who are as precise and logical in all their activities and institutions, as any people in the world.

Having everything " square " seems to be the fashion.

The typical Dutchman, whether in the Catholic south or the Protestant north, is still today essentially a man who is very correct in his appearance and demeanour. One sees him wearing a double-breasted suit, taking his wife and family to church on Sundays. Puritanical, he possesses the virtues of thrift and self-help.

This character is reflected in their new architecture on the housing estates and satellite towns where, continuing the Amsterdam tradition of straight roads, with squared blocks of flats stretching endlessly through the city, cubism architecture on the grand scale is the most striking feature.

And in local government a uniform pattern is the feature most immediately apparent to the British observer, so accustomed to anomalies and irregularities in public administration.

Dutch local government springs from an Act of 1851 which provides for one type of local authority, the " gemeenten." In looking at the pattern one is at the outset referred to provincial governments, of which there are 11—Frieseland and North Brabant spring to mind as Dutch provinces. But in such a small country, these provinces do not have the same importance and public powers as the municipalities.

Though their powers are not great, they at least provide the basis for the Upper House at the Parliament in the Hague, representatives from the Provincial Government, elected by popular ballot, serving as members of what is called their First Chamber.

The Executive Committee of the provincial government comprises a number of commissioners elected from among the government members themselves, plus a royal commissioner appointed by the Crown. It is this body which has supervisory powers over the municipalities, rather than the central government. Its sanction is required for financial expenditure, and its approval is sought for decisions of the local councils which affect the possessions of the provincial government.

Where controversy arises, the local council can appeal to the central government, and a public hearing may be allowed. In practice, I learnt that the Crown invariably gives protection to the municipality where provincial supervision has exceeded its jurisdiction.

*Finance*

For the most part, Dutch local authorities derive their income, not from provincial governments, nor from local rates on property, but from central government grants-in-aid. They are not given on a percentage basis, but a fixed amount for each area for the number of school children, the number of policemen and so on. One found some public criticism of a system which allows a municipality to apply for additions to the central grant for special purposes with inevitable discrepancies being created.

Local councils do have the right to a certain proportion of the total state revenues. Of recent years, due to increasing national wealth, and a higher yield from expected taxation funds, extra grants have been made to the local authorities.

Local government expenditure represents, roughly, under 10 *per cent.* of the total national income. Of this it can be said that five *per cent.* is for consumption, the remainder for investment.

Because the bulk of local council income accrues from the central grants, aside from a shrinking amount from local sources, many Dutch citizens favour some form of local income tax or rates which, like the English system, would create local interest through the pockets of local citizens. Direct local taxation, it is argued, would create greater local interest in how municipalities spend their monies.

Among the authorities one found a proposition for what they called an inhabitant tax, not very different from our own system of rates on residential property, under active consideration. I found no widespread demand for the local income tax system as in Norway which would result in big differences in the amounts received by local councils. The general view seemed to be for some form of local tax or rating, on a small scale, over and above the central grants, to give a fillip to local concern with municipal affairs.

Though this would represent a break with the neat and tidy local government pattern in Holland it would have, they said, some social advantages.

*Nearly* 1,000 *Councils*

In Holland there are just under 1,000 local councils, elected, not on a ward and personal basis as in this country, but by means of proportional representation. The councils are of the all-purpose type of authority, handling all kinds of local need, and with powers for introducing local byelaws. There are, of course, limitations imposed on the autonomy of local councils which cannot pass laws on matters covered by national legislation. A glance at the Dutch Constitution reveals that municipalities are expected to act as auxiliaries and partners in the central government administration. Yet if they work within the general framework of the central authority, this does not mean that local councils are " tied." On the contrary they enjoy wide fields of freedom within which to act on behalf of local people.

One felt that they were performing, not a subordinate role, not mere agents, but bodies able to act with initiative and freedom.

One important difference from the English system is that no provision is made for the statutory committees such as Education, Health, Watch and Fire Brigade, with their own independent functions, that we normally associate with our own local authorities.

There are, however, special committees in Dutch local councils which prepare the plenary meetings of the councils. There is, too, an executive board—a committee of the burgomaster and aldermen—with the burgomaster acting as chairman. This takes on the role of an " inner Cabinet " and initiates policy recommendations.

The full council membership, as a single entity, takes decisions on all local matters. These meetings are open to the public and the press.

Elections for Dutch local councils are for the most part conducted on a denominational and political party basis. As with their national elections, proportional representation is the method by which voting is effected.

Because there is only one type of local authority, and by virtue of having a large population in a small space, Dutch

municipalities have a high number of inhabitants compared with civic authorities in many other countries. Consistent amalgamations have produced an average population of 11,000. Nearly *60 per cent.* of the Dutch population live in local council areas with more than 20,000 people.

The one supreme asset of these amalgamations is that, in the main, local authorities have a financial strength, and are thus able to employ specialists and qualified technical assistance, not found in all countries.

*Appointed By Crown*

Chairman of the council is the burgomaster, appointed by the Crown on the recommendation of the Minister concerned, and not by the council. Herein is the most important difference from our own system. He is nominated by the Crown for a period of six years and he is usually re-nominated when the period has expired. In the Dutch town or city, therefore, there is continuity in the service of the first citizen.

In view of his being responsible for control of the local police one might well react to this by using the term—centralization. But as has already been stated, Dutch local government appears to be genuinely local, and the burgomaster is not a mere paid agent of the central government, but is the official representative of the locality. He is no more a sycophant than is the mayor or lord mayor of an English borough.

I was told that the system of public administration in the Netherlands is all the stronger because of this method of appointment by the Crown. Holland has a peculiar history of life in rigid denominational and political party " columns." The maintenance of a locally-elected first citizen, of a non-professional character, is hardly practicable in the Netherlands.

The burgomaster is independent of government bodies and of local organs. Strict impartiality is the over-riding pre-requisite if he is to retain confidence and local unity.

What of the practical results of this system in terms of meeting the needs of the local populace? Certainly, housing estates, schools, shopping centres, roads, are springing up everywhere in the country. So too are hospitals, bridges and new waterways. Land reclamation is proceeding at a vigorous pace. National planning, with local councils playing a major role, is the aspect of life in Holland that strikes one most forcibly.

*Sex Laws*

Quite apart from local government, what is of interest to magistrates in this country, is the basic difference in the attitude among the Dutch towards the delicate problem of homosexuality.

If, to the English, the Dutch appear somewhat " straight-laced " then this attitude is all the more extraordinary. Homosexual practices and love between consenting adults of the same sex are not prohibited by law. This makes it possible for a minority of people of both sexes, afflicted by the trait, to form their own society, officially approved.

This organization has clubs and branches in various areas where members listen to psychiatrists and leading public figures who attend these meetings to open discussions and debates on the problems facing homosexuals and their relations with society.

Married couples and heterosexuals also attend the meetings of this organization.

By these means a highly religious country is able to avoid the evils of persecution and ostracism.

The Wolfenden recommendations relating to homosexuality, which will have to be incorporated in law to be effective, are part of the popular and accepted standpoint of the Dutch, cutting right across all religions and political barriers. They claim, rightly or wrongly, that this attitude arises, as does their extreme tolerance of the coloured people from their former colonies in their midst, from the traditional " humanism " of the people of the Netherlands. A.M.

# MENTAL HEALTH ACT, 1959—I

*By* JOHN MOSS, C.B.E.

The Mental Health Act, 1959, carries out the recommendation of the Royal Commission on the law relating to mental illness and mental deficiency, that the law on the subject of mental health generally and its administration should be altered by abandoning the assumption that compulsory powers must be used unless the person concerned can express a positive desire for treatment; and replacing this by the offer of care, without deprivation of liberty, to all who need it and are not unwilling to receive it. Under the Act all hospitals providing psychiatric treatment will be free to admit patients for any length of time without any legal formality and without power to detain. Magistrates will, therefore, when the Act comes fully into force, have no duties in regard to the compulsory removal of persons to mental hospitals or mental deficiency hospitals. The other main recommendation by the Royal Commission which is given effect by the Act is that all local authority services should be available to those who can benefit from them without the use of compulsory powers.

The adoption of these main principles involves the repeal—when the Act comes into full operation—of the whole of the Lunacy and Mental Treatment Acts and the Mental Deficiency Acts as well as parts of a number of other statutes. Local authorities, *i.e.*, the councils of counties and county boroughs, are mainly concerned as the local health authorities but also, to a minor extent, as welfare authorities under the National Assistance Act and as children authorities under the Children Act.

The only provisions which came into operation on the passing of the Act were (*a*) the power given to the Minister of Health to give directions under s. 28 (1) of the National Health Service Act, 1946, for defining the duties of local health authorities under that section as amended by the Mental Health Act; and (*b*) the powers of the Minister and of local health authorities with respect to the submission, approval or making of proposals under s. 20 of that Act, for modifying in the light of such directions the proposals in force at the passing of the Act for the carrying out of their duties under s. 28. Otherwise the Act will come into operation on such dates as the Minister may appoint.

By a circular letter dated August 7, 1959, the Minister accordingly directed local health authorities, as from the coming into operation of s. 6 of the Act, to make arrangements for the purpose of the prevention of mental disorder and the care of such persons; and further to submit their new proposals to him not later than April 1, 1960.

The Mental Health Act, 1959 (Commencement No. 1) Order, 1959, brought into operation on October 6, 1959, ss. 1 and 149 of the Act to the extent necessary to repeal the

provisions of the Lunacy Act, 1890, which prevent hospitals, licensed houses and nursing homes from receiving mentally ill patients informally without powers of detention. Accordingly any person who is not unwilling to be admitted and can suitably be treated without powers of detention may be admitted informally in the same way as patients are admitted to general hospitals or to "de-designated units" of mental hospitals. There will be no power to detain any patients so admitted. Magistrates called upon to certify persons for admission to mental hospitals should therefore inquire not only whether the person could be suitably admitted as a voluntary patient or as a temporary patient, but as to whether he could be dealt with informally under the procedure now permitted pending the full operation of the Act. Action of this kind should still further reduce the number of persons who are removed compulsorily to a mental hospital.

Having outlined the general principles underlying the Act, it may be convenient to consider the Act in some detail so as to give a picture of how the law, which is so familiar to magistrates and others concerned with its administration, has been altered.

## PART 1

The Act is divided into five parts. Part 1 repeals the principal existing Acts, provides for the dissolution of the Board of Control, and for the establishment of Mental Health Review Tribunals to deal with applications in respect of patients who are detained, and defines the persons to whom the Act applies.

*Mental Health Review Tribunals*

A tribunal must be appointed for the area of each of the regional hospitals boards (s. 3). The members are to be appointed by the Lord Chancellor. Each tribunal must include legal members and medical members, together with persons appointed after consultation with the Minister and having such experience in administration, such knowledge of social services or such other qualifications or experience as the Lord Chancellor considers suitable. The chairman of each tribunal is to be appointed by the Lord Chancellor and must be a legal member. The chairman may appoint a group of members for any particular purpose and of the members so appointed one or more must be appointed from the legal members; one or more from the medical members; and one or more from the other group (sch. 1). Members of the tribunals will be entitled both to remuneration and the payment of expenses (s. 3).

It will be the important duty of the tribunals to consider applications by or on behalf of patients who have been admitted for treatment otherwise than at their own request (s. 31); or who are dealt with under a similar procedure although already in hospital. A tribunal will also have power to consider applications in respect of persons placed under guardianship. This power of reference to a tribunal is the safeguard provided by the Act to secure that any person dealt with compulsorily shall have full opportunity for applying for his case to be considered by an independent body. Instead, therefore, of magistrates being the independent persons concerned with the compulsory removal of persons to hospital, the tribunals will be in a position to review such admissions at any time afterwards. It may no doubt be assumed that some of the members appointed as members of the tribunals will as magistrates, have had experience of the operation of the present laws.

The Minister may, if he thinks fit, at any time refer to a tribunal the case of any patient who is liable to be detained or subject to guardianship (s. 57).

For the purpose of advising whether an application to a tribunal should be made or for furnishing information as to the condition of a patient for the purpose of an application any medical practitioner authorized by or on behalf of the patient or certain other persons interested in the application, as specified, may visit the patient and examine him in private (s. 37).

The Lord Chancellor may make rules with respect to the making of applications to tribunals and with respect to the proceedings of the tribunals. In particular the rules must make provision, *inter alia,* (i) for enabling the consideration of a further application to be postponed for a specified period after a previous application has been considered; (ii) for enabling a tribunal to dispose of an application without a formal hearing; (iii) for enabling a tribunal to exclude members of the public or to prohibit the publication of reports on any proceedings; (iv) for regulating the circumstances under which a person may be represented for the purpose of the application; (v) for regulating the methods for obtaining information for the tribunal; (vi) for making available copies of documents to certain persons concerned; and (vii) for requiring a tribunal if so requested, to furnish statements of the reasons for any decision. A tribunal may, and if so required by the High Court, shall, state in the form of a special case for determination by the High Court any question of law which may arise before them (s. 124).

A tribunal may direct a patient to be discharged and shall so direct if they are satisfied, (*a*) that he is not at the time of the decision suffering from mental illness, psychopathic disorder, subnormality or severe subnormality; or (*b*) that it is not necessary for the interests of the patient's health or safety or for the protection of other persons that the patient should continue to be liable to be detained; or (*c*) that in certain specified types of case the patient, if released, would not be likely to act in a manner dangerous to other persons or to himself.

Where application is made to a tribunal in the case of a patient under guardianship the tribunal may direct that he be discharged and shall so direct if they are satisfied on similar grounds to those specified for patients who are detained (s. 123).

*Definitions*

The other important alteration in the law in part 1 is the definition and classification of the various forms of mental disorder. "Mental disorder" means illness, arrested or incomplete development of mind, psychopathic disorder, and other disorder or disability of mind. "Severe subnormality" means a state of arrested or incomplete development of mind which includes subnormality of intelligence and is of such a nature or degree that the patient is incapable of living an independent life or of guarding himself against exploitation, or will be so incapable when of age to do so. "Subnormality" means a state of arrested or incomplete development of mind (not amounting to severe subnormality) which includes subnormality of intelligence and is of a nature or degree which requires or is susceptible to medical treatment or other special care or training of the patient. "Psychopathic disorder" means a persistent disorder or disability of mind (whether or not including subnormality of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the patient and requires or is susceptible to medical treatment (s. 4). These new expressions replace comprehensively the definitions of persons of unsound mind in the Lunacy and Mental Treatment

Acts and of mental defectives in Mental Deficiency Acts. The Royal Commission did not consider it appropriate to use any single term such as "a defective" as a common epithet for patients whose disorders may vary over so wide range. The definitions in the Act are not, however, identical with those recommended by the Royal Commission but broadly are in acceptance of these recommendations.

*(To be continued)*

# CAPITAL EXPENDITURE WITHOUT BORROWING

An attractive idea but, in practice, impossible. This would be the common comment to a suggestion that local authority borrowing should stop completely—and of course the comment would be correct.

This does not mean, however, that there is not scope for a big reduction in the proportion of capital expenditure met from loans.

Consider the rate levy. During the next few months and until local budgets have been passed a lot will be said about it in increasing tempo and volume. It will be used as a basis for speeches on the insupportable burden of taxation, with hints of impending bankruptcy unless a halt is called to rising expenditure; as a reason why an officer's application for salary regrading must (reluctantly, of course) be refused; and for many another Gladstonian lament.

We hope not to be misunderstood. Economy in public expenditure is as essential as ever: it remains a top priority: nevertheless wise spending is required rather than unthinking parsimony.

A comprehensive understanding of the rate burden, of its size and impact, and of how far it really is oppressive, is not in most members' minds. It should be. The subject was explored by Professor and Mrs. Hicks in pre-war days: their examination of the incomes of 1937 disclosed that the rate charges amounted on average to no more than 3·3 *per cent.* of incomes. Even in the case of the great majority of incomes, which in those days were those not exceeding £250, the rate burden was only 3·8 *per cent.* Where income was £2,000 plus the percentage was one or less. The post-war position is little different. In 1958 the Treasury have estimated total personal incomes at £8,963 m., and rates at £646 m., giving a percentage of 3·4.

In the same year the amount spent on alcoholic drink and tobacco was £1,985 m., more than three times as much as the rate charge.

According to the latest figures published by the Ministry of Labour the average weekly male earnings in England and Wales amounted to £12 16*s.* 8*d.* On this figure a married man with two children would take home pay of £12 6*s.* 9*d.* He may also fairly be regarded as an average ratepayer: as such his weekly rate payment would depend on where he lives but in any case would not be a large proportion of his net income. For example in 1958 he would have paid in West Ham 10*s.* 2*d.* per week: in Walsall 5*s.* 5*d.* It must not be forgotten either that in the Welfare State because of the various benefits to which the worker is entitled his real wages are a good deal higher than the cash in his wages packet.

The latest figures of loan debt are those published in Local Government Financial Statistics for 1956–57. At March 31, 1957, net loan debt of local authorities and boards amounted to £4,586,340,000. Ten years before it was a third of this figure. The Institute of Municipal Treasurers and Accountants publish a biennial return of outstanding debt of all classes of local authorities. Because of various difficulties the return contains only samples (although quite large ones) of county district debt: it nevertheless gives a useful picture of the purposes for which loans have been raised by all authorities. The latest return shows a net debt at March 31, 1958, totalling £4,038,593,000 analyzed as follows:

| | £000's |
|---|---|
| Trading Services .. .. .. .. | 194,267 |
| Housing .. .. .. .. .. | 2,787,938 |
| Education .. .. .. .. .. | 520,125 |
| Other Services .. .. .. .. | 429,862 |
| | 3,932,192 |
| Advances to other L.A.'s.. .. .. | 25,014 |
| Transferred Services .. .. .. | 81,387 |
| | 4,038,593 |

Trading services are of less importance than they used to be: their income, in any case, comes largely, if not wholly, from the customers and accordingly there are great advantages in spreading capital charges over a period either by loan financing or where practicable, renewal funds and the like.

The housing service is increasingly required to be self-supporting and rate fund contributions are steadily diminishing. Here again it is right that capital expenditure should be amortized and paid for by the tenants over the life of the asset.

But rate fund capital expenditure on education and other services is a different proposition. If a greater proportion could be met otherwise than out of loan, interest charges would be saved and demands on the capital market would be lessened. The Radcliffe Committee Report says that local authorities have been borrowing from more than local sources, and that both locally and in the national market they have attracted funds by offering much more expensive terms than have to be offered by the central Government.

And there is the trend of interest rates to be considered. The outlook for the gilt-edged market remains gloomy and the possibility of even higher rates in the future cannot be excluded from consideration. Treasurers and finance committees know the dangers: in many cases debt charges have only been kept to a reasonable figure by the use of large—in some cases, very large—quantities of seven day and the like short-term money. This has led to criticisms in the financial press: although we do not regard these as justified they are evidence of uneasiness in some quarters about methods of local authority capital financing.

There are, of course, other ways of financing capital expenditure and increasing use is being made of them. Reserve and renewals funds may be established under local or general Acts and capital funds may be created similarly. These latter form one of the most hopeful of post-war developments for it is only in that period, although the idea came from Coventry many years earlier, that they have been much used. The corpus of the fund may be used over and over again and in suitable circumstances may be augmented by further rate fund contributions.

The capital fund will, we believe, grow increasingly in importance but at present it must take second place to the direct contribution from revenue as a means of paying for capital expenditure without loan raising. In this field of revenue contributions, however, local authorities are not by any means free.

For example, the Rate-Deficiency Grants Regulations, 1959, require particulars, *inter alia*, of capital expenditure in relation to any project in excess of the amount of a penny rate product. This expenditure, or part of it, the Minister has power to disallow for grant if the authority step up their provision from revenue in any year above what they have done before.

Lastly and most importantly there is the powerful influence of the General Grant, making loan financing to the limit appear attractive. This subvention has been fixed until March 31, 1961, subject to the promise of a review if new extraordinary expenditure justifies it. Additional capital expenditure financed from revenue by individual authorities over the levels taken into account when the grant was fixed will not justify a revision of the grant: the practical effect therefore is that the charge must be wholly rate-borne. Furthermore, if a local authority makes a smaller contribution from revenue to capital than it has done in the past the whole reduction will become an effective rate saving.

The pernicious effect of the general grant is therefore to encourage local authorities to increase their borrowing just at the time when every other circumstance calls for its reduction. The gilt-edged market is in the doldrums: stock issues have had to be spaced at remarkably wide intervals to secure their acceptance at all and long-term mortgage rates are high. Local authorities have outstanding vast amounts of very short-term debt and the Radcliffe Committee of experts says they are paying too high a price for their capital. On the other hand the so-called burden of rates sits lightly on the ratepayers' shoulders and could well be increased to finance capital expenditure. If local authorities in their wisdom so decided they should not be estopped by statutory restrictions or actively discouraged by a grant system which enables the National Exchequer to evade its fair share of the cost of such sound financing.

# WEEKLY NOTES OF CASES

## QUEEN'S BENCH DIVISION

(Before Lord Parker, C.J., Cassels and Edmund Davies, JJ.)

### ELLIOTT *v.* GREY

October 30, 1959

*Road Traffic—Using uninsured vehicle—"Use"—Car broken down and incapable of being driven—Car not immovable—Road Traffic Act*, 1930 (20 *and* 21 *Geo.* 5, *c.* 43), *s.* 35 (1).

CASE STATED by South Shields justices.

An information was preferred at South Shields magistrates' court by the respondent, Grey, a police officer, charging the appellant, Elijah Elliott, with using an uninsured car on a road, contrary to s. 35 (1) of the Road Traffic Act, 1930.

On February 7, 1959, the appellant was the owner of a car which was parked outside his house, when another vehicle collided with it. At that time there was no policy of insurance for the car in force. On December 20, 1958, the car had broken down and could not be driven, and the appellant immediately placed it outside his house and left it there. He jacked it up, so that the wheels were off the ground, and removed the battery. He then terminated the insurance cover. The car could not be mechanically propelled and the appellant had no intention of moving or driving it. The justices convicted the appellant, who appealed.

*Held*: that "use" was a wider term than "drive," and meant "have the use of"; the appellant had the use of the car as it could be moved, though not driven; and, therefore, the appeal must be dismissed.

Counsel: *Miskin*, for the appellant; *Whitworth*, for the respondent.

Solicitors: *Amery-Parkes & Co.; Speechly, Mumford & Soames*, for Town Clerk, South Shields.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

### KENSINGTON BOROUGH COUNCIL *v.* WALTERS

October 30, 1959

*Local Authority—Accidental or careless damage to property—Summary recovery of expenses—Liability of innocent motorist—London Government Act*, 1939 (2 *and* 3 *Geo.* 5, *c.* 40), *s.* 181 (3).

CASE STATED by Kensington justices.

A complaint was preferred at Kensington magistrates' court by the appellants, Kensington borough council, against the respondent, Henry Stanley Walters, alleging that he had failed to pay £25, the cost of repairing a damaged street refuge. On June 19, 1958, the respondent was driving his car in Cromwell Road, Kensington, when another car collided with it and drove it against the refuge. The justices, being of opinion that the driver of the other car was solely responsible for the collision and the damage to the refuge, dismissed the complaint. The appellants appealed.

By s. 181 (3) of the London Government Act, 1939: "If any person accidentally or carelessly damages any property vested in a local authority, the authority may recover from him summarily . . . the expenses incurred by it in making good the damage."

*Held*: that the subsection referred only to the person who actually did the accidental or careless act, whether voluntarily or involuntarily, and was designed to give a speedy remedy to a local authority to recover expenses incurred in repairing damage, without having to consider who was blameworthy. The appeal must, therefore, be allowed.

Counsel: *Wrightson*, for the appellants; the respondent in person.

Solicitor: *Town Clerk*, Kensington.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

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CHINGFORD BOROUGH COUNCIL *v.* GWALTER AND A. & B. C. CHEWING GUM, LTD. (*ante*, p. 627).—The solicitor instructing counsel for the prosecution was the Town Clerk, Chingford, not as stated.

# MISCELLANEOUS INFORMATION

## CRIME IN THE U.S.A.

The June issue of *Federal Probation*, which is published by the Administrative Officer of the U.S. Courts, contains several articles relevant to criminologists on this side of the Atlantic. Thus, Senator Thomas C. Hennings considers the effectiveness of the juvenile court system. He remains firmly on the side of the present methods at their best, but he is deeply concerned over inadequate procedures resulting from over-crowded lists and under-staffed courts. As he sees it, a juvenile court, aiming as it does at diagnosis, must be able to devote much time and patient inquiry to individual cases: rubber-stamp methods must at all costs be avoided.

There is also an interesting article on the split-sentence law, a Federal enactment of 1958. This provides that a sentence of more than six months may be suspended after the first six months has been duly served, the offender being released on probation "for such period and upon such terms and conditions as the court deems best." Whilst we have no corresponding provision over here it is interesting to note that the Federal law approximates in style to what some have been advocating in England—particularly in the context of the detention centre. It will be interesting to have subsequent information on how the experiment works out in practice.

Finally we would mention an article on sentencing policy *vis-a-vis* the current crime wave—an even more alarming affair in America than here. Harry Elmer Barnes, a criminologist and historian, considers that tough sentences deter only those who are unlikely in any event to repeat their offences. He holds that constructive and lenient attitudes must at all costs be retained as the best methods for the great majority of offenders, as in his view their number arises from the breakdown of basic social concepts, especially the family idea. As he sees it probation and analagous methods have as their primary aim the restoration of these principles—essentially a long term and an individualist approach. There is certainly food for thought in these challenging ideas.

## LOANS SANCTIONED—SIX MONTHS TO SEPTEMBER 30, 1959

Loans sanctioned by the Minister of Housing and Local Government to be raised by local authorities in England and Wales during 1958–59 totalled £453 million, a decrease of £13 million from the previous year. In the six months to September 30, 1959, however, figures have risen considerably and if the second half year proceeds at the same level 1959–60 authorizations to borrow will substantially exceed the 1955–56 peak year total of £515 million.

The following table analyses sanctions under services and compares the figures with those of the corresponding period in 1958:

| *Purpose* | *Half Year ended* | |
|---|---|---|
| | *September* 30, 1958 | *September* 30, 1959 |
| | £*m.* | £*m.* |
| Housing (Land, dwellings, roads, sewers, etc.) .. .. .. | 89 | 125 |
| Advances and Grants under Housing and S.D.A. Acts .. .. | 19 | 31 |
| | 108 | 156 |
| Sewerage, sewage disposal and water supplies.. .. .. | 27 | 34 |
| Education .. .. .. .. | 50 | 58 |
| Miscellaneous .. .. .. | 21 | 37 |
| | 206 | 285 |

Housing loan sanctions have dropped in the second quarter by £15 million.

Highways capital expenditure out of loans is slowly increasing but the total is remarkably small, even after making allowance for the fact that this is only a part of the total cost of works. During the six months under review total sanctions issued for this purpose did not reach £7 million.

## CONVALESCENT TREATMENT REPORT OF A WORKING PARTY

The Minister of Health appointed a working party three years ago under the chairmanship of Dr. N. M. Goodman, to examine the extent to which the provision of convalescent homes is meeting the demands placed upon it. The report of the working party has now been published. It was unfortunate that they only felt able to interpret their terms of reference as extending to convalescent treatment for which the hospital service is responsible under part II of the National Health Service Act, 1946, and did not consider the local health services except to the extent that the two services are, in practice, interrelated.

At the outset the working party found it necessary to define what is meant by "convalescent treatment." The matter is complicated: first, by the distinction under the National Health Service Act between the respective responsibilities of hospital authorities and of local health authorities, and secondly, by the variety of terms now used for various forms of treatment or care during the period of convalescence. In the report, therefore, the term "convalescence" is used to denote the period of recovery following an acute illness or injury and is divided into (*a*) "convalescent treatment" and (*b*) "recuperative holiday." The period of "convalescent treatment" is further sub-divided into (*a*) "pre-convalescence" or "recovery"; (ii) "active convalescent treatment" or "rehabilitation"; and (iii) "passive convalescence"; the meaning of these various terms being explained in the report.

An early section of the report gives an interesting historical survey of the concept of convalescence in this country from the 15th century, and of the first provision of convalescent homes in the mid-19th century. Tracing their use until the coming into operation of the Act of 1946, it is noted that at the end of the second world war, a great many convalescent homes had, for a variety of reasons, ceased to operate. For the first time then, the distinction was made between convalescent homes giving treatment and those which did not. Those in the first category were either transferred to the Minister for administration by regional hospital boards or could make contractual arrangements with them. The remainder were not "hospitals" and were not transferred. They could only be used—in theory at least—for recuperative holidays by local health authorities through their powers under s. 28 of the Act. A distinction was made in the Act between the "duty" of a regional hospital board to provide convalescent treatment and the "power" of a local health authority to provide recuperative holidays.

The survey made by the working party of existing accommodation was restricted to that provided for the four London metropolitan hospital regional board areas although most of these homes are actually outside London. But the conditions found there no doubt also prevail in other parts of the country.

As in so many reports—as we have had to comment previously—this report again shows how in a special field there is lack of co-operation between those concerned in different aspects of the national health service. Discharge reports are not commonly sent from convalescent homes and there is rarely any liaison with the patient's own general practitioner, or directly with the local health authority where social problems are known to be present. Less than three *per cent.* of patients are re-admitted to hospital, but it is as to the 97 *per cent.* in respect of whom there should be collaboration with the family doctor or the home care services of the local health authority. Where this is considered necessary, liaison is sometimes effected through the almoner of the sending hospital.

It is generally agreed that there are certain specific groups of patients for whom convalescent home accommodation is either not available or can only be found occasionally. The working party gave special consideration to the need for convalescent treatment for the mentally ill and mentally defective patients. In general the psychiatric patient requires a longer period of convalescence than is usually accepted and cases where there is a suicidal risk are rarely suitable for general homes. It is thought that there should be a number of small homes providing three to six weeks' convalescent treatment where the patients could be cared for by staff trained in psychiatric as well as general nursing; and that these should be the responsibility of the regional hospital boards rather than the local authorities.

The position of the elderly also requires attention. Although facilities for their convalescence have improved in the last two years there is still a need, the working party says, for more accommodation where patients can have a good deal of attention and the quieter recreational facilities enjoyed by older people. It is emphasized in the report that "age" should not be assessed solely on a chronological basis, but that many elderly patients could quite suitably go to general homes if there was a relaxation of the age bar which often exists; while for others a special home for elderly people only would be more suitable. They often need a longer period of convalescence than is normally required after illness, and the situation is often complicated by the fact that there is a chronic condition such as bronchitis or heart disease, secondary to the acute illness, from which they are convalescent. The difficulty for many of the elderly in undertaking a long journey to a convalescent home points to the need for a larger "scatter" of vacancies and small homes suitable for these patients. It is to be hoped that as the result of the publication of this report, regional hospital boards generally will take action to provide additional homes for the elderly and that those homes which have an age limit will remove it.

In conclusion, the view is expressed in the report that the treatment of convalescence has remained a medical and nursing backwater and that there are a number of defects which should be remedied. It needs to become more active, more planned and more integrated with other aspects and disciplines of medicine. There should be a more vigorous attack along the lines of rehabilitation for the sick similar to that developed in rehabilitation for the disabled; there should also be a larger study of the relative roles and comparative value and cost of recovery homes, rehabilitation units and convalescent hospitals and homes, in the recovery of health. Specific and detailed recommendations are made in regard to the need for improving and extending the accommodation available for the London area.

# BOOKS AND PAPERS RECEIVED

(The inclusion in this feature of any book or paper received does not preclude its possible subsequent review of notice elsewhere in this journal.)

A Handbook for Licensing Justices. By James Whiteside. London: The Magistrates' Association. No price stated.

Lumley's Public Health Acts. Third cumulative supplement to 12th edn. By K. T. Watson, LL.B. Butterworth & Co. Price 80*s.*

Common Sense in Law. Third edn. By Paul Vinogradoff, revised by H. G. Hanbury. Home University Library, Oxford University Press. Price 7*s.* 6*d.*

The Licensing Guide. By Michael Underhill. The Solicitors' Law Stationery Society Ltd. Price 6*s.* 6*d.*

County Court Notebook. By Erskine Pollock, Ll.B. The Solicitors' Law Stationery Society Ltd. Price 2*s.* 6*d.*

Reminders on County Court Costs. Notes by R. B. Orange. The Solicitors' Law Stationery Society Ltd. Price 2*s.*

Elements of English Law. Sixth edn. By W. M. Geldart. Revised by Sir William Holdsworth and H. G. Hanbury. Oxford University Press. Price 7*s.* 6*d.* net.

# ANNUAL REPORTS, ETC.

## CITY OF LEEDS: CHIEF CONSTABLE'S REPORT FOR 1958

A reorganization of the divisional boundaries and of the beat working, using increased mobility, has avoided the need for any application for a further increase in the establishment of this force. The establishment stands at 905 and on December 31, 1958, the actual strength was 873. This showed a decrease of 12 on the figure for December 31, 1957. Wastage during 1958 was increased, unfortunately, by deaths and by early retirements due to bad health, but there was a welcome drop in the number of probationers leaving the force. The report includes a map showing the present divisional boundaries of the six divisions, a small central division and five much larger ones radiating out from it to the outskirts of the city.

There has been no difficulty in maintaining the strength (18) of the cadet corps. Of 30 cadets who, since 1949, have completed their military service 24 have been appointed as constables.

The keenness of members of the force to improve their efficiency and to gain additional knowledge is shown by the advantage taken of resident weekend courses in criminology at Leeds University. Those who attend do so in their own time and at their own expense.

As in other places crime continued to increase. The 1958 total of 8,187 recorded crimes was 1,871 more than that for 1957 and was the highest total ever recorded in the city. The increase was spread over a number of different classes of offences, those particularly mentioned being shop and store-breaking, shoplifting, and stealing from gas and electricity meters, from automatic machines and from unattended cars. Having regard to the pronouncements of High Court Judges on the granting of bail in certain cases it is interesting to note that four persons committed for trial and released on bail were re-arrested and charged with committing further offences whilst on bail.

Mention is made in the report of the juvenile liaison scheme and the police hobbies club, the objects of both being to stop children getting into mischief and to direct their energies into useful channels, in other words crime prevention in its early stages.

Recorded accidents increased from 4,855 in 1957 to 5,675 in 1958, but fortunately those involving death or injury decreased from 1,646 to 1,580.

## BLACKPOOL WEIGHTS AND MEASURES DEPARTMENT

In his report for the year ending March 31, 1959, Mr. N. K. Whitehead, who was appointed to the post of chief inspector of the weights and measures department of the county borough of Blackpool last February, cites the Shops Act, 1950, as one of the most perplexing of all the statutes his department administers, particularly in its reference to Sunday trading. The Act exempts the sales of many articles on Sundays, but, Mr. Whitehead writes, there are no definitions of the terms used with the result that the law is full of pitfalls for the unwary. He refers to the wide interpretation in the High Court of "meals and refreshments whether or not for consumption at the shop at which they are sold" to include any kind of foodstuff, whether loose or in tins or in packets, as extending the range of exemption far beyond, he believes, the original intention of the Act and making the borderline between right and wrong more tenuous than ever. Legal proceedings under the Act were instituted during the year in 38 cases, involving fines totalling £46—all in respect of occupiers of shops which were open on Sundays.

Blackpool, as a leading holiday resort, is naturally particularly concerned with the number of Sundays for which such resorts can make orders for sales of certain classes of goods, and Mr. Whitehead reports that his council is making representations for the number (at present 18 a year) to be increased. While such an increase will go some way towards easing the difficulties, he believes that the borough's problems cannot be solved until holiday resorts are given power to make exemption orders for any trade where the majority of shopkeepers concerned earnestly desire to open.

Much time has been given by the department to the inspection of vehicles carrying coal and coke for sale, in order to give as much protection as possible against short weight, and in view of the high cost of these fuels, the department considers this aspect of its duties to be very important. The principal type of fraud, Mr. Whitehead has found, has changed over the years. Nowadays, when more and more people are taking their supplies in larger quantities, carters have found that, while the attention of the inspectors make the carrying of short weight bags very risky, it is often easy and profitable to deliver a lesser number of bags than is paid for. Although he considers that it would be far from right to imply that all dealers and carters are rogues, Mr. Whitehead believes that employers have a duty to their customers to keep an eye on their men and make checks on them as they go about their rounds. The customers themselves might also do more for their own protection, he suggests, by watching their deliveries taking place. While the department's inspectors do all they can by ensuring that correct weight is carried in sacks, they cannot be everywhere to watch deliveries.

## YEOVIL RURAL DISTRICT COUNCIL FINANCES, 1958–59

Mr. R. J. Parsons, F.I.M.T.A., treasurer and chief financial officer of this Somerset rural district of 24,500 population has produced promptly his usual clear and concise abstract of the council's accounts.

A rate of 16*s.* 4*d.* was levied of which 14*s.* 4*d.* was required by the county council. Including additional items the total was 16*s.* 9*d.*, which was 1*s.* 1*d.* below the average for 129 rural districts.

The year's working resulted in a surplus of income over expenditure of £5,600 and at the year end the general rate fund balance totalled £52,000. A penny rate produced £837.

The council own 1,764 houses and the surplus on the housing revenue account increased during the year to £33,300. As from April 6, 1959, the council introduced a 48 week collection year without any increase in rents, subject to tenants not being in arrear at the beginning of the four free weeks.

At March 31, there was a balance on the repairs fund equal to £28 per dwelling. The council carry their own risks in respect of damage by fire and lightning, and experience has been very favourable.

A deficiency of £16,000 occurred on the water undertaking: there was a considerable decrease in income for bulk supply to Yeovil corporation. The rural district bore £2,000 of the deficiency, the balance being paid by Somerset county council.

## HULL CHILDREN'S DEPARTMENT REPORT

Mr. Henry Norris, children's officer for Kingston-upon-Hull takes occasion in making his report for the year ended March 31, 1959, to look back upon the 10 years' work of the children's committee since it came into existence. During that time there have been improvements in methods and in accommodation, but the policy has consistently remained as endeavouring to help families to keep their homes together rather than to keep children in care for long periods. It is now felt necessary to augment the accommodation by a small family group home to cater for those children likely to need long-term residential care and whose placement in the existing establishments is difficult. This will be on a new housing estate.

To cater successfully for the needs of the children with a diminished amount of residential accommodation has also, of course, meant an increase in (*a*) preventive work to secure that no child comes into care until all other avenues have been explored, and (*b*) maintaining and extending the system of foster-home placement.

The work of the admissions' officer, says Mr. Norris, has been of immense value in this respect and statistics given in previous reports show that of the number of children for whom application to receive into care was made, the percentage admitted has steadily decreased from 50·9 *per cent.* in 1952 to 40·8 *per cent.* for the year under review. Add to this the fact that the number of children for whom application was made has steadily increased (231 cases involving 422 children in the year ended November 30, 1950, and 299 cases involving 706 children in the year ended March 31, 1959) and it will readily be seen that this side of the work has increased enormously.

While children are in the care of the authority strong efforts are made to restore them to their parents as soon as circumstances permit.

The work of boarding-out has, of course, also expanded. On July 5, 1948, out of 399 children in care, 122 were boarded out in the city. On March 31, 1950, out of 310 children in care, 129 were boarded out in the city, plus another 12 in lodgings who are not now classified for record purposes as being boarded out. Incidentally, it is pointed out that boarding-out is the least expensive of residential methods of placing children, although the children's committee would never recommend it on that account. Mr. Norris records his personal opinion that many children are now successfully boarded out who 10 years ago, would probably have been regarded as a risky placing. The understanding and tolerance of foster parents never fails to impress him. Methods of advertising the need for more foster parents are not always successful, and, says Mr. Norris, "I have always felt that our own foster parents are the best form of advertisement of our needs."

A generation or so ago we could never have expected to read the following statement about a hostel for girls: "Some of the older girls have 'steady' boy friends who are encouraged to call at the hostel in the evenings and are invited for tea at the week-ends."

The attendance centre was one of the first three to be established and claims to be the only one to be run under the sponsorship of a children's committee of a local authority, and not by the police. It is considered that committals to approved schools have been diminished by this extra deterrent.

The work of submitting home surroundings reports on juvenile offenders brought before the courts has increased greatly during the year. One thousand and eleven reports were submitted during the year as against 793 the previous year. The department has also been asked to submit reports on Hull children who appear before the East Riding courts, a duty previously undertaken by the probation officers.

## PEWSEY RURAL DISTRICT ACCOUNTS AND YEAR BOOK

Pewsey is in Wiltshire and the district council, under the chairmanship of Lt.-Col. W. F. Lindley of Tidworth, is responsible for providing appropriate services for 18,000 people.

The annual publication of the council is original in conception: it is a year book with an abstract of accounts and financial report, plus a progress report from the council's engineer. The idea is worthy of imitation.

Pewsey levied a rate in 1958–59 of 16*s.* 4*d.*, of which 14*s.* was to meet county council requirements. Expenditure on district services totalled £49,000: there was a surplus of £1,700 on the year's working which increased the revenue balance in hand to £33,000. A penny rate produced £830.

Like many other councils Pewsey sets off its revenue balance against a temporary capital overdraft. Treasurer I. W. Janes, A.C.C.S., wisely arranges a considerable part of his borrowing on a temporary basis: he was thus able to take advantage of the downward trend of interest rates during the year.

There was a deficiency of £4,500 on the housing revenue account, equal to 5½*d.* rate. The standard weekly rents of post war three bedroom houses vary between 24*s.* and 25*s.* 6*d.*, with a maximum rebate of 8*s.* 6*d.*

The clerk, Mr. R. C. Cook, A.C.C.S., D.M.A., reports that house building continues and that heavy capital expenditure continues to be incurred on water and sewerage schemes.

## THE SUTTON DWELLINGS TRUST

In the 59 years since the trust's foundation, the trustees have developed 24 estates of which six are in London and the remainder in large towns in various parts of the country, involving a total capital expenditure of £4,813,225, and at December 31, 1958, had provided 8,067 dwellings comprising 4,242 houses and 3,825 flats. It has always been the practise of the trust to provide, wherever possible, special accommodation for old people. Five hundred and six one roomed flats and 104 two roomed flats have been so provided and a good proportion of the 1,149 two room flats not specifically reserved for old people are in fact occupied by elderly persons. The total number of residents on the trust's estates was, at October 31, 1958, 24,206.

During the year under review the trust's village for old people at Plymouth, known as the Miles Mitchell village, was opened by H.R.H. The Duchess of Kent, who praised particularly features of the village which enabled old people to preserve their independance and look after themselves. In all, 73 new dwellings were completed during the year. The capital fund of the trust now amounts to £4,466,194, the trust having never borrowed money, financing all its work from its original endowment and subsequent annual surpluses. The surplus of the dwellings revenue account for 1958 was £84,190.

## BLACKPOOL CHIEF CONSTABLE'S REPORT

The chief constable of Blackpool, making his first annual report, writes of a "sudden and unexpected spurt in recruiting" from October, 1958, onwards, which encouraged him to recommend an interim increase in his establishment. This has had the effect of creating three new inspectors, nine sergeants and six constables—an overall increase of 18 men—and although at the end of the year the fulfilment of this establishment was short by 20, 27 constables and one woman constable had been appointed on two years' probation, and there appeared to be no dearth of suitable recruits. This larger establishment must be welcomed in view of the increase of 350 indictable offences over the previous year, bringing the 1958 total to 3,851, an increase of 265 *per cent.* over 1938. A roughly similar increase in juvenile crime is also indicated by the 220 proceedings taken during the year against juveniles, an increase of 31 over 1957, but at the same time the percentage of all crimes detected rose to 47 from 44 *per cent.*

The prosecutions department, which became self contained as from December, 1958, dealt with 4,489 non-indictable offences during the year, which resulted in 3,885 prosecutions—over half the result of motoring offences. Road accidents involving personal injury increased from 735 in 1957 to 855 in 1958, although fatal accidents showed a slight reduction from 16 to 15.

In his report, the chief constable attempts to answer the question as to whether crime is higher in Blackpool than elsewhere. He suggests that consideration must be given to the size and importance of the borough as a resort and a conference centre, which, by reason of its many varied forms of attractions, encourages the criminal classes to confine and concentrate their activities there. "Small wonder then" he writes, "if crime does show an increase over that obtaining in other resorts and inland towns."

The report shows concern with the accommodation provided for the police force of the borough, which, the chief constable considers, cannot continue to function efficiently from its present headquarters. While the watch committee realize that urgent attention must be given to this matter, it is pointed out that anything up to five years will elapse before an improvement can be effected. Meanwhile provision is to be made for decoration and such other minor improvements as are deemed necessary.

## LEICESTERSHIRE AND RUTLAND PROBATION REPORT

This report, for 1958, is the first to be made for the combined area by a principal probation officer, Mr. F. V. Jarvis having been appointed to the newly created post. He points out that in 1939 there were only 10 principal probation officers. At the present time there are 59 principal probation officers in England and Wales and seven in Scotland.

The value of a probation service which includes principal and senior officers to co-ordinate and generally to supervize the work is indicated when Mr. Jarvis writes: "The ability to deal with people in trouble and distress cannot be learnt only from books. It is largely the fruit of instructed experience and one way in which that experience can be deepened and widened is by the discussion of cases with a principal or senior officer. Moreover, not only may casework skills be shared and developed by this process but the probation officer himself may be personally assisted."

After referring to the increasing volume and variety of work which probation officers have to undertake, Mr. Jarvis comments: "All this comes at a time when so many other sections of the community are demanding less work and shorter hours. Fortunately probation officers have a sense of vocation and are unlikely to be influenced by this trend. However, as I have already indicated, it is a factor which must be considered when the recruiting of staff is discussed."

The success rate, based on the number of probationers completing their probation satisfactorily was 73 *per cent.* for males and 84 *per cent.* for females. In 1957 the figures were 74 *per cent.* and 92·5 *per cent.* respectively, compared with the national figures of 71·5 *per cent.* and 81·5 *per cent.*

This report, like many others, acknowledges gratefully the help given by employers willing to take discharged prisoners and thus help in the difficult process of rehabilitation.

The report expresses satisfaction at the increasing use of social reports in the higher courts. As Mr. Jarvis says: "It used to be said that British justice would spend days determining a man's guilt and only a few minutes deciding how he should be dealt with. This is no longer a fair criticism." Such reports as are made by the probation officer, Mr. Jarvis insists, must always be impartial if they are to be of real value, and it is a mistake for the probation officer to be regarded as an advocate for the defendant.

The probation officers in this combined area co-operate fully with the Marriage Guidance Council, who may be able to assist at an early stage, people who for one reason or another would not approach the probation officer.

There is a tribute to the police, which we believe to be well deserved. "The police and the probation service are sometimes regarded as being on opposite sides. Nothing could be further from the truth. The police are most eager to see the rehabilitation of offenders and frequently go out of their way to assist."

# SHORTER NOTICES

**Is There a Bathroom in the House?**

Supplied free by Bilston Foundries, Ltd. of Staffordshire, this booklet provides a simple and pleasantly illustrated guide to the benefits granted by the House Purchase and Housing Act, 1959. It should prove a useful addition to the official pamphlet on the subject for those thinking of taking advantage of the provisions of the Act.

# THE WEEK IN PARLIAMENT

**By J. W. Murray, Our Lobby Correspondent**

### CRIMINAL INJURIES (COMPENSATION) BILL

Mr. R. E. Prentice (East Ham, N.) is to introduce a Private Member's Bill in the Commons to "compensate those injured by certain criminal offences against the person; to provide for their dependants and for the dependants of those killed by criminal acts."

The Bill is supported by Mr. Chuter Ede (South Shields), Mr. Clement Davies (Montgomery), Sir Robert Cary (Manchester, Withington), Mr. G. Deer (Newark), Vice-Admiral Hughes Hallett (Croydon, N.E.), Dr. H. King (Southampton, Itchen), Mr. G. R. Mitchison (Kettering), Mr. J. Parker (Dagenham), Brigadier Sir John Smyth (Norwood) and Miss Joan Vickers (Plymouth, Devonport).

The Bill will come up for Second Reading on Friday, February 5, 1960.

### CRIMINAL APPEAL ACT

Mr. E. Fletcher (Islington, E.) asked the Secretary of State for the Home Department whether he would introduce legislation to ensure that in future appeals from the Court of Criminal Appeal to the House of Lords would not depend upon the fiat of the Attorney-General but might proceed with the leave either of the Court of Criminal Appeal or of the House of Lords.

The Secretary of State for the Home Department replied that he had announced in the House on July 30, last, that the then Government intended to abolish the certificate procedure under s. 1 (6) of the Criminal Appeal Act, 1907. Legislation for that purpose would be introduced in the current Session.

### PROSECUTIONS OF MOTOR CYCLISTS

Sir Charles Taylor (Eastbourne) asked the Secretary of State how many prosecutions there had been during the last 12 months for noisy exhausts of motor cycles.

Mr. Butler replied that the only figures available were those relating to the metropolitan police district. In the 12 months ended August 31, 1959, there were 365 prosecutions for the offences of using a motor cycle with defective silencing equipment or in such a way as to cause excessive noise.

Sir Charles then asked how many prosecutions there had been during the past 12 months for the breaking of the speed limit by motor cycles.

Mr. Butler replied that in the 12 months ended August 31, 1959, 9,168 motor cyclists were prosecuted in the metropolitan police district for exceeding the 30 *m.p.h.* or 40 *m.p.h.* speed limits. No comparable figure was available for the country as a whole, but analysis of a random sample of all speeding offences showed that in 1958 about 25,000 motor cyclists were prosecuted for this offence in magistrates' courts in England and Wales.

### EXECUTIONS

Mr. C. Osborne (Louth) asked the Secretary of State if, in order to avoid undesirable exhibitionism and demonstration by a minority of the public on the occasion of the hanging of a murderer, he would ensure that in future all hangings should be done in secret.

Replying in the negative, Mr. Butler said he was required by s. 11 (2) of the Homicide Act, 1957, to publish the time and place of an execution. It would be wrong to conceal the date, and he did not think that an attempt to conceal the time would prevent crowds assembling at the prison.

### CORPORAL PUNISHMENT

Sir Charles Taylor and a number of other Government backbenchers have tabled a motion in the Commons urging that "the birch and the cane should be restored as a form of punishment for certain crimes of violence."

# PERSONALIA

### APPOINTMENTS

The Queen has signified her intention of appointing Mr. G. G. Ifor Bowen Lloyd, Q.C., to be a Judge of county courts to succeed Judge Clothier.

The Queen has appointed Mr. G. G. Lind-Smith, recorder of Birkenhead, to be a Judge of the county courts. He will be one of the Judges of Birmingham county court.

The Queen has signified her intention to appoint Judge Carl Douglas Aarvold, now an additional Judge of the Mayor's and City of London court, to be Common Serjeant in the city of London in succession to Sir Anthony Hawke.

The Queen has signified her intention of appointing Mr. M. J. H. Turner to be an additional Judge of the Mayor's and City of London court.

Mr. J. C. Phipps has been appointed a magistrate of the metropolitan magistrates courts.

Sir Ambrose Dundas, until recently Governor of the Isle of Man, has been appointed chairman of Bracknell New Town Development Corporation in succession to Sir Lancelot Keay.

Superintendent D. J. Jones has been appointed deputy chief constable and chief superintendent of Carmarthenshire constabulary, to succeed the late Mr. Nathaniel Davies.

Mr. F. N. V. Meredith, clerk of Abercarn, Mon., urban district council, has been appointed clerk and solicitor to Hawarden, Flintshire, rural district council.

Mr. M. A. Bains, first deputy clerk of the Hampshire county council, has been appointed deputy clerk of the Kent county council in succession to Mr. G. T. Heckels, who is to become the new county clerk.

Mr. G. E. Betts, deputy borough engineer and surveyor of Ipswich, has been appointed county surveyor for the Parts of Holland, Lincolnshire, in the place of Mr. T. J. Livesey, who was killed in an aeroplane accident earlier this year.

Mr. W. Michael West, M.A., at present assistant conveyancing solicitor, has been appointed senior conveyancing solicitor to the Sheffield corporation. He was articled to the town clerk of Sheffield and admitted in 1952. In the town clerk's office Mr. West succeeds Mr. Jack Lindsay who has been appointed deputy clerk to the Leicester city justices and takes up his new duties on December 1, next.

Mr. Edward S. Walker has been appointed senior clerk, county planning department, Staffordshire county council. He is at present senior committee clerk with the urban district council of Redditch, Worcs.

Chief Superintendent Alex Shand has been appointed chief superintendent of the Nottingham division of the county police as from November 9, last. He succeeds Chief Superintendent William Upton, who retired recently.

### RETIREMENTS AND RESIGNATIONS

Sir Guildhaume Myrddin-Evans, chief international labour adviser to the Government, and deputy secretary to the Ministry of Labour, will be retiring from the public service on December 17, next. Mr. H. F. Rossetti, deputy secretary to the Ministry, will succeed him.

Mr. Hubert T. Lewis, chief constable of Carmarthenshire and Cardiganshire constabulary for the last two years and previously chief constable of Carmarthenshire since 1940, has announced his intention of retiring on June 30, 1960.

Superintendent D. McKenzie, for the past five years in charge of Woolwich sub-division, metropolitan police, has retired after 34 years' service in the force.

### ANNIVERSARY

Mr. H. A. C. Sturgess, M.V.O., has been presented with a bowl and a cheque by the benchers and members of the Middle Temple in recognition of his services as librarian during the last 50 years. Mr. Sturgess, who is continuing in his position, has already served the Inn longer than any librarian during the last three centuries.

### OBITUARY

Mr. Alan Wilson, C.B., chief inspector of audit, Ministry of Housing and Local Government, has died at the age of 63.

Mr. J. F. C. Machin, a former town clerk of Brackley, Northants., has died at the age of 45.

Mr. Irving Child, director of prisons, Jamaica, since 1948, and formerly governor of Lewes prison, Sussex, has died at the age of 55.

# MISCELLANY

Our great contemporary, *The Times*, does not strike one as the kind of source where one would expect to find the curiosities of literature and life; yet a regular browser among its voluminous pages may frequently pick up some tit-bit of information, some scrap of intelligence, which reminds him what a strange world he lives in. Such curiosities are not confined to the "Fourth Leaders"—those short essays on the middle page which combine stylishness with whimsicality, and humanity with erudition. They are also to be extracted from the news items, disinterred from among the advertisements, and dug out from the correspondence columns.

One of the last-mentioned occurs in a recent issue, in a letter from an angry gentleman in Wigmore Street. Having read complaints about lack of care in preserving the white horses carved in the chalk of the Downs in various parts of Southern England, this correspondent has dipped his pen in acid to protest against neglect of that geographical symbol—the meridian line. Every schoolboy knows that Greenwich is the site of Longitude 0°; but those of us who are not cartographers are apt to assume the viewpoint of the Bellman in *The Hunting of the Snark*:

> "What's the good of Mercator's North Poles and Equators,
> Tropics, Zones and Meridian Lines?"
> So the Bellman would cry; and the crew would reply—
> "They are merely conventional signs!"

However, the writer of this letter has been scandalized, on taking some friends for a visit to Greenwich Park, to find the stone surrounding this world-famous landmark "dirty and scribbled on, to say nothing of the long grass and neglected shrubs which surround the Line." "Surely," he exclaims with indignation, "the Greenwich authorities should have more pride in their unique possession?"

Two other copies of *The Times*, issued in the last few days of October, include (without any concordance) references to the kindred subjects of sleeping and snoring. The news columns printed an appeal, by the editor of *Family Doctor*, for volunteers "to act as guinea-pigs" in research on the causes and the possible remedies for snoring.

> "What we want our snoring readers to do is to work at some simple exercises for the jaw and throat muscles for 10 minutes every night before going to sleep. Ideally, we want husbands and wives who share the same bedroom. One does the snoring, and the other does the recording."

Only in this country, with its puritanical traditions, could this matter of domestic intimacy intrude upon what is, in essence, a piece of impersonal scientific research—and that without apparent regard to the risks of matrimonial disharmony involved. Mark Twain, it will be remembered, long ago noted that "there ain't no way to find out why a snorer can't hear himself snore." The writer of *The Times* article admits to "a certain scepticism at the chances of a successful cure being discovered." He mentions, and by inference rejects, "the dropping of specially kept soap-pellets into the offending mouth"; such a remedy, apart from its probable effect in increasing the incidence of cruelty suits in the Divorce Division, reminds us of the method suggested (by a bachelor) for stopping a baby from crying at night—"Fill its mouth with wet sand, and pack in tight." The remedy, effective as it probably is, might prove worse than the disease.

One extraordinary suggestion in that article is that "the reading of Wordsworth before going to sleep should be avoided, as likely to encourage snoring." Yet a "Fourth Leader," which appeared on the very next day, mentions the experience of the Romany Rye, "who came across a gentleman accustomed to cure his insomnia by lying down in a particular meadow to read Wordsworth, whereupon he instantly fell asleep." The Red King, in *Through the Looking Glass*, was found by Tweedledum and Tweedledee, in the wood, "lying crumpled up into a sort of untidy heap, and snoring loud—fit to snore his head off"; but that was not due to reading Wordsworth, but to his dreaming about Alice who, as Tweedledee contemptuously remarked (with a touch of Berkeleyan philosophy) was "only a sort of thing in his dream; and if he left off dreaming about you, you'd be nowhere!"

But we must not digress. The subject of that "Fourth Leader" was "persistent sleeping," as penalized by the Kensington council in a new byelaw which carries a penalty of £5 if it occurs in one of its public libraries. The writer becomes reminiscent on the subject of Sir Roger de Coverley in *The Spectator*, and of the Fat Boy in *Pickwick*. But surely the *locus classicus* is Washington Irving's *Rip van Winkle*. The chief character in that book, meeting a strange creature in the Kaatskill mountains in the State of New York, took a secret sip at the keg he was carrying, and thereupon fell asleep for 20 years. When he awoke, the United States had achieved independence, his wife was dead, his child was married and his native village had grown into a city. We are not told whether he snored throughout his long slumber; but his exploit must be "persistent sleeping" *par excellence*. It surpasses even the record of Wagner's Brünnhilde, in *Die Walküre*, who disobeys the command of the god Wotan, saves Sieglinde so that she may bear the world-hero Siegfried, and as a punishment is put to sleep on a crag by the Rhine, surrounded by magic fire, until Siegfried himself, adolescent and ardent, awakens her with a kiss. The slumber of the Sleeping Beauty, in Charles Perrault's tale, was infectious, since all the inmates of her father's castle fell asleep at the same time, and awoke many years later. But the expression "persistent sleeping" carries an anti-social stigma which cannot very well attach to one particular member of a somnolent group, so probably the Sleeping Beauty doesn't count.

A.L.P.

# ADDITIONS TO COMMISSIONS

LOWESTOFT BOROUGH

Edwin Henry Newson, 54 Stradbroke Road, Pakefield, Lowestoft.

NEWBURY BOROUGH

Walter Challis Franks, Goldinghams, Oxford Road, Newbury, Berkshire.

REIGATE BOROUGH

George Harry Searle, 27 Orpin Road, Merstham, Surrey.

WEST SUFFOLK COUNTY

Miss Violet Marjorie Elliott, Grenville College, Stoke-by-Clare, Sudbury.

Mrs. Jean Hughes Hesketh, Buck House, The Avenue, Newmarket, Suffolk.

WEST SUSSEX COUNTY

John Percy Gee, Rogate Lodge, Petersfield, Hampshire.

Miss Joan Mary Quennell, Upper Wardley, Milland, nr. Liphook, Hampshire.

WILTSHIRE COUNTY

Mrs. June Rosealie Brierly Borrelli, Chedcliffe Lodge, Chiseldon.

Mrs. Phyllis Florence Cundick, 150 Eden Vale, Westbury, Wiltshire.

Ambrose Frederick Hussey-Freke, Hannington Hall, Swindon.

Captain Roger Edward Lennox Harvey, Parliament Place, Ramsbury.

Michael James Hathaway, Harden, Long Ridings, Chippenham.

Richard Thomas Vaughan, Middle Farm, Winterbourne, Monkton, Swindon.

# PRACTICAL POINTS

**All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.**

**1.—Agency**—*Chief constable acting for police authority—Police Pensions Regulations*, 1955.

Regulation 53 of these regulations reads as follows:

"53. Every regular policeman may be required to retire on the date on which the police authority determine that he ought so to retire on the ground that he is permanently disabled for performance of his duty:

Provided that a retirement under this regulation shall be void if, after the said date, on an appeal against the medical opinion on which the police authority acted in determining that he ought to retire, the medical referee decides that the appellant is not permanently disabled."

According to the definition in reg. 74 and according to the various statutes to which one has to refer as a result, there is no doubt that "police authority" means in the case of a county the standing joint committee, or, if there is a combined authority as there is in this county, then the combined police authority.

The point upon which advice is sought is that the chief constable receives, from the force's medical officer, a certificate that constable X is suffering from a disability of a permanent nature precluding him from the performance of his duty.

Constable X has previously been on sick leave for a long time. Upon receipt of the medical report, the chief constable immediately sends for constable X and tells him that, as from the following day, he is compulsorily retired. This fact is reported to a meeting of the police authority about two months later, and the police authority at that meeting confirms the rate of pension which has in the meantime, in accordance with the Home Office instruction, been issued to the constable, thus avoiding hardship.

The chief constable does not specifically ask for confirmation of his action in retiring the constable, and the police authority's resolution makes no reference to such confirmation. No powers in this respect have been delegated by the police authority to the chief constable. The chief constable, however, says that in his experience this is the way that such a matter is usually handled.

Now, about a year after the event, constable X takes the point that his retirement has been improperly carried out in so far as the police authority never considered the matter until about two months after the chief constable had "given him his bowler hat".

This raises the general question whether the local authority can always, or can in particular circumstances, ratify and adopt as their own the action of one of their officials purporting to act on their behalf. In this particular case there is also the question whether, having regard to the wording of the regulation, the chief constable could in any event act in advance on behalf of the police authority who, as in this case, were not due to meet for another two months.

Your opinion therefore is sought:

(*a*) whether it is in order for the chief constable to act as he has done in this case;

(*b*) if it is not, what the police authority should now do to rectify the matter, and what are the remedies open to constable X;

(*c*) whether the police authority could properly by resolution delegate their powers to the chief constable, and whether you can quote any authority for the power to make such a delegation;

(*d*) whether in general a local authority can ratify the acts of its officials, and if so subject to what conditions.

B. NEWHALL.

*Answer.*

(*a*) No, in our opinion, but *see* below;

(*b*) We do not think that X has any remedy, or that the police authority need do anything further;

(*c*) No: *see Vine* v. *National Dock Labour Board* [1956] 3 All E.R. 939, especially the Lord Chancellor's speech, and the remark by Lord Somervell quoted in the headnote. But the police authority's pension resolution was, in effect though not in form, a ratification of the chief constable's action; the circumstances are in our opinion such that the ratification takes effect from the time of that action.

(*d*) This is too big a question to answer in general terms, when dealing with a specific instance.

**2.—Criminal law**—*False pretences—Motor car obtained by worthless cheque subsequently exchanged for another car—Second offence.*

A purchased a motor car for £600 and paid for it by cheque. He took possession of the car and the seller handed him the registration book.

Within a few days, it was ascertained that the cheque was worthless; and a warrant was obtained for the arrest of A for obtaining the motor car by false pretences.

A could not be traced, but a few days later he called at a garage and exchanged the motor car which he stated was his property for a landrover worth £300 and was also handed a cheque for £135 to complete the deal.

A was later arrested on the warrant, and the question now arises, can a further charge be preferred against A for obtaining the landrover and a cheque for £135 by false pretences, by falsely representing that the motor car the garage took in part exchange was his property.

HAMBIL.

*Answer.*

We think that A can be charged as suggested, since it is unlikely that he would have obtained the second vehicle and the cheque if the seller had known the true facts.

**3.—Criminal law**—*Form of charge—Insulting words and behaviour—Duplicity.*

Recently men were charged with using insulting words and behaviour at a meeting contrary to s. 5, Public Order Act, 1936, but the clerk of the court objected to the wording of the charge on the grounds that the section says "words *or* behaviour" and therefore only one ingredient may be used, not both.

I cannot subscribe to this view mainly through years of such charges being accepted and dealt with, also if evidence of words and behaviour were both available it would be necessary to satisfy the clerk for two separate charges. Further if an insulting words charge was preferred evidence of behaviour would not presumably be relevant to the charge, and *vice versa* when a behaviour charge was used.

I am unable to find any data for or against the clerk's point of view and would welcome anything to clarify this point. KOLONA.

*Answer.*

It is clear that a charge of using insulting words *or* behaviour would be bad for duplicity (*Jones* v. *Sherwood* (1942) 106 J.P. 65) but we think that *Davis* v. *Loach* (1886) 51 J.P. 118 and *R.* v. *Jones and Others* (1921) 85 J.P. 112 can be relied upon to support a charge of using insulting words and behaviour, the argument being that in the conduct complained of the words and behaviour are so much connected as to constitute one act.

**4.—Licensing**—*Occasional licence—Function held at town hall—Bias of justice who is a member of local authority.*

I have frequent applications for occasional licences to be granted for dances at the town hall, which, of course, is the property of the local authority. Four members of the bench are councillors and therefore have an interest in the letting of the town hall for these functions, although, of course, applications for licenses are made by local licensees.

There have been disturbances in recent months at these dances and the justices have asked both licensees and organizers to give undertakings not to admit persons to the dances after 9.30 *p.m.*, which excludes persons from the dance hall, who have come from licensed premises after closing time.

As a result there has been a considerable falling off of lettings by the council for these functions, on the other hand the dances have been orderly and there have been no complaints of any disturbances. One of the justices, however, who is also a councillor is now asking the justices to waive the undertaking already mentioned.

I should be glad to have your opinion (i) whether any of the justices who are also councillors should participate and vote on whether an undertaking is required or not and (ii) whether they should adjudicate on applications for occasional licenses for functions at the town hall.

O. PESTELL.

*Answer.*

Inasmuch as applications are not made by the local authority but by licence holders, no disqualification of a justice who is a member of a local authority arises under s. 3 of the Justices of the Peace Act, 1949.

It seems that the interest of councillor/justices is exceedingly remote, especially as it does not even relate to the question of whether or not a magistrates' court shall consent to the grant of an occasional licence but whether or not an undertaking, itself an extra-legal thing, shall be required. It is, indeed, doubtful whether the requirement of such an undertaking in every case has not the appearance of a rigid self-imposed rule fettering the court's discretion to consider every application on its merits (*see R.* v. *Rotherham Licensing JJ., ex parte Chapman* (1939) 103 J.P. 251).

We do not think that the justice who is also a councillor discloses a bias in asking his fellow-justices to change their policy in the matter. If he disagrees with that policy (as he could do for reasons entirely unconnected with the letting of the town hall) it is correct that he should express his views to his colleagues.

5.—**Magistrates**—*Practice and procedure—Attachment of earnings order—Procedure to discharge when notice given that defendant is no longer employed.*

What is your opinion about discharge of an attachment of earnings order under s. 9 (3) of the Maintenance Orders Act, 1958?

A dispute has arisen between the local council and myself over the necessary process that should be issued under this section. I have referred the council to s. 9 (1), s. 20 (1) (*b*), s. 20 (2) and s. 20 (4) (*b*) of this Act.

In my opinion, as it is necessary for a complaint to be laid, then this should either be done by the local council, in whose favour the contribution order is payable, or they can alternatively authorize me to take the necessary action by way of complaint.

ISETO.

*Answer.*

In our view there is no need for an application to discharge the order when notice is given to the court under s. 10 (4) of the Act. The court, by s. 9 (3), has no discretion in the matter and is required, on receipt of the notice, to discharge the order. There is, therefore, no need for any complaint to be made. The court discharges the order and gives notice as required by r. 11 of the Magistrates' Courts (Maintenance Orders Act, 1958) Rules, 1959.

6.—**Magistrates**—*Practice and procedure—Information—More than one set out in one document—Signatures of informant and magistrate—Alternative offences.*

It has always been my impression that only one offence can be charged on an information, but as a result of an information being brought to me on which four separate offences were charged against one person, I looked further into the matter and studied r. 14 of the Magistrates' Court Rules, 1952, more carefully. The first part of that rule confirmed what I had always believed, but the second part seemed to contradict the first part.

Is the true construction of r. 14 that an offence should not be expressed in the alternative?

Is it sufficient if several informations are laid in the one document that there is only one signature of the informant at the end of all the separate offences rather than the signature of the informant (and possibly of the magistrate) after each separate offence?

In my experience quite a number of magistrates' clerks are wedded to the idea that only one offence should be charged in an information, understanding by the word "information" the document rather than the actual offence.

KONTIP.

*Answer.*

Rule 14, *supra*, allows two or more informations to be set out in one document and, in our view, one signature by the informant and one by the magistrate, each specifically covering all the informations, is sufficient. But each information set out in such a "composite" document must be complete in itself and must be in proper form and not expressed in the alternative. If there are possible alternative offences each should be separately set out.

7.—**Road Traffic Acts**—*Motor cars and heavy motor cars—Vehicles unladen weight between 2½ and three tons—Classification.*

Recently a Bedford lorry, unladen weight two *tons* 18 *cwts.*, which was laden at the time, was stopped whilst being driven by a youth aged 19 years. He was reported for driving a heavy motor car whilst being under the age of 21 years, contrary to s. 9 (3) of the Road Traffic Act, 1930. In addition, the firm by whom the youth was employed was reported for permitting the offence contrary to s. 9 (3) of the Road Traffic Act, 1930. The firm was also reported for allowing the vehicle to be used without having caused the unladen weight to be painted, or otherwise plainly marked upon some conspicuous place on the left or nearside of the vehicle, contrary to reg. 59 of the Motor Vehicles (Construction and Use) Regulations, 1955, as amended by reg. 2 of the Motor Vehicles (Construction and Use) (Amendment) (Number 2), Regulations 1957.

Summonses were issued in respect of these offences but were withdrawn because after much research it was believed that a person between the ages of 17 and 21 years is allowed to drive a motor car, whether a passenger or a goods vehicle, the unladen weight of which does not exceed three *tons*.

Section 9 of the Road Traffic Act, 1930, states that a person under 17 years of age may not drive a motor car other than a motor cycle or an invalid carriage on a road, and the same section goes on to state that a person under 21 must not drive a locomotive, light locomotive, motor tractor or heavy motor car on a road. It follows, therefore, that a person who is 17 years of age or more is allowed to drive a motor car.

Referring to s. 2 of the Road Traffic Act, 1930, it describes a heavy motor car as being a mechanically propelled vehicle constructed to carry a load or passengers, and the weight of which unladen exceeds 2½ *tons*. The same section describes the definition of a motor car, which includes a goods vehicle, the unladen weight of which does not exceed 2½ *tons*. This limit was increased to three *tons* by the Motor Vehicles (Definition of Motor Cars) Regulations, 1941, but these regulations ceased to have effect as from November 1, 1956, as a result of the passing of the Road Traffic Act, 1956. Paragraph 9 (3) of sch. 8 of the Act increased the unladen weight of a motor car from 2½ *tons* to three *tons*. Although the unladen weight of a motor car appears to have been increased to three *tons*, the definition of a heavy motor car still remains as a vehicle of which the unladen weight exceeds 2½ *tons*.

I should be most grateful if you would confirm that a person between the ages of 17 years and 21 years is allowed to drive a vehicle of any description, provided the unladen weight does not exceed three *tons*, and at the same time I would appreciate your comment regarding the description of a heavy motor car still remaining as a vehicle constructed to carry a load or passengers, the unladen weight of which exceeds 2½ *tons*.

MUNOC.

*Answer.*

A heavy motor car is one which, *inter alia*, does not fall within the definition (in s 2. (1) of the Act of 1930) of motor cars. This definition, as the question states, is extended by para. 9 (3) of sch. 8 of the Act of 1956 to include certain goods vehicles of which the maximum unladen weight does not exceed three *tons* and, because of this, the Bedford lorry in question is a motor car and not a heavy motor car.

With the present extended definition of motor car, we cannot think of any vehicle which is a heavy motor car if its weight does not exceed three *tons*.

We agree that a duly licensed person aged 17 to 20, inclusive, may drive any vehicle not exceeding three *tons* in weight. In saying this we are assuming that no locomotive or motor tractor will be less than this weight because, if one were, s. 9 (3) would apply.

*Land and Estate Agents, Auctioneers, Valuers and Surveyors—Continued*

**LONDON AND SUBURBS**

ANDREWS, PHILIP & CO., Chartered Surveyors, 275 Willesden Lane, N.W.2. Tel. Willesden 2236/7

FAREBROTHER, ELLIS & CO., 29 Fleet Street, E.C.4.

WARD SAUNDERS & CO., Auctioneers, Surveyors, Valuers, Estate Agents, 298 Upper Street, London, N.1. Tel. CANonbury 2487/8/9.

G. J. HERSEY & PARTNER, Chartered Auctioneers and Surveyors. 44 College Road, Harrow, Middx, and at 368 Bank Chambers, 329 High Holborn, London, W.C.1. Tel. Harrow 7484/7441.

WINCHMORE HILL, ENFIELD, SOUTHGATE, AND NORTH LONDON SUBURBS.—KING & CO., Chartered Surveyors and Valuers, 725 Green Lanes N.21. LAB. 1137. Head Office, 71 Bishopsgate, E.C.2

**MIDDLESEX**

POTTERS BAR & DISTRICT.—WHITE, SON & PILL, 58 High Street. Tel. 3888.

**SURREY**

ESHER.—W. J. BELL & SON, Chartered Surveyors, Auctioneers and Estate Agents, 51 High Street, Esher. Tel. 3551/2. And at 2 Grays Inn Square, W.C.1. Tel. Chancery 5957.

GUILDFORD.—CHAS. OSENTON & CO., High Street. Tel. 62927/8.

**SUSSEX**

H. D. S. STILES & CO. (H. D. S. Stiles, F. A. R. Bessant, Chartered Surveyors), Chartered Auctioneers and Estate Agents, 6 Pavilion Buildings, Brighton, Tel. 23244 (4 lines); 3 The Steyne, Worthing, Tel. 9192/3; and at Loddon.

**WARWICKSHIRE**

BIRMINGHAM.—J. ALFRED FROGGATT & SON, F.A.I., Chartered Auctioneers, Valuers & Estate Agents, Unity Buildings, 14 Temple Street, Birmingham, Tel. MIDland 6811/2.

## Official Advertisements

### NOTTINGHAMSHIRE

**Appointment of Probation Officers**

THE Nottinghamshire Probation Committee invite applications for the appointment of whole-time male Probation Officers. A car allowance will be payable and an assisted purchase scheme is available.

Forms of application with conditions of appointment may be obtained from my office and completed forms should be returned to me as soon as possible.

GEORGE NORTON,
Clerk of the Peace.

County Hall,
West Bridgford,
Nottingham.

### COUNTY BOROUGH OF WARRINGTON

**Second Assistant Solicitor**

APPLICATIONS are invited by December 5, 1959, for the above appointment within the N.J.C. Scale (£835—£1,165) according to experience and date of admission. Applicants should state age, qualifications, experience and names of two referees. Applications from November finalists will be considered.

J. P. ASPDEN,
Town Clerk.

Town Hall, Warrington.

### METROPOLITAN BOROUGH OF LEWISHAM

**Assistant Solicitor**

APPLICATIONS are invited from qualified solicitors, preferably with substantial local government experience after admission. Salary rising to £1,485 p.a. (J.N.C. Scale B). Particulars and form of application from Town Clerk, (Dept. R), Lewisham Town Hall, London, S.E.6.

Closing date December 14, 1959.

### CITY OF BIRMINGHAM

**Appointment of a Whole-time Male Probation Officer**

APPLICATIONS are invited for the appointment of a whole-time male Probation Officer for the city of Birmingham.

The appointment and salary will be in accordance with the Probation Rules, 1949 to 1959. Candidates must not be less than 23 years nor more than 40 years of age, except in the case of a serving officer.

The post is superannuable and the selected candidate will be required to pass a medical examination.

Applications (in own handwriting) on a form which can be obtained from the undersigned, should be sent with copies of two recent testimonials to the undersigned, not later than 14 days after the publication of this notice.

F. D. HOWARTH,
Secretary of the
Probation Committee.

Victoria Law Courts,
Birmingham, 4.

### LANCASHIRE MAGISTRATES' COURTS COMMITTEE

**BOLTON PETTY SESSIONAL DIVISION**

APPLICATIONS are invited for the appointment of a male General Division Assistant in the office of the Clerk to the Justices of the above division. Commencing salary according to age and ability but not exceeding £595 per annum.

Some previous legal experience would be an advantage but is not essential. Applicants should preferably be competent typists. G.C.E. educational standard. This appointment will afford a good opportunity of training in magisterial law and practice.

The post is subject to the Conditions of Service of the Joint Negotiating Committee for Justices' Clerks' Assistants, and is superannuable.

Applications, stating age, education and experience, together with the names of two referees, should be sent to me not later than Monday, December 7, 1959.

EDWARD F. GALLAGHER,
Clerk to the Justices.

12 Silverwell Street,
Bolton.

### CARMARTHENSHIRE AND CARDIGANSHIRE POLICE AUTHORITY

APPLICATIONS are invited from qualified persons for the appointment of Chief Constable of the combined police force to take up duties on July 1, 1960.

Salary will be on scale £2,140 × 65 (3)—£2,335, together with travelling and subsistence allowances. House and uniform provided. Appointment is subject to provisions of the Police Regulations and the person appointed will be required to pass a medical examination. Knowledge of the Welsh language will be an additional qualification.

Further particulars and forms of application obtainable from the undersigned. Closing date—January 1, 1960.

W. S. THOMAS,
Clerk of the Police Authority.

County Hall,
Carmarthen.
November 16, 1959.

### CITY OF MANCHESTER

**Appointment of Two Additional Whole-time Male Probation Officers**

APPLICATIONS are invited for the above appointments.

Applicants must not be less than 23 nor more than 40 years of age, except in the case of a serving probation officer.

The appointments and salaries will be in accordance with the Probation Rules, 1949 to 1959.

The successful applicants will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with copies of not more than two recent testimonials, must reach the undersigned not later than November 30, 1959.

HAROLD COOPER,
Secretary of the
Probation Committee.

City Magistrates' Court,
Manchester, 1.

### MIDDLESEX COMBINED PROBATION AREA

**Full-Time Male and Female Probation Officers**

AGE 23–40 years, except for serving probation officers, with experience in social case-work. Appointment and salary according to Probation Rules, 1949–59. £30 per annum metropolitan addition; subject to superannuation deductions and medical assessment.

Application forms returnable to The Secretary of the County Probation Committee, Guildhall, S.W.1, by December 5. (Quote B. 441.)

### SHROPSHIRE COMBINED PROBATION AREA

**Appointment of Whole-time Male Probation Officer**

APPLICATIONS are invited for the above appointment. Applications must be not less than 23 nor more than 40 years of age, except in the case of serving officers.

The appointment and salary will be in accordance with the Probation Rules and the successful candidate will be required to pass a medical examination.

Applications should reach me not later than December 12, 1959, and should state date of birth, present position, salary, previous employment, qualifications and experience, together with the names and addresses of two referees.

G. C. GODBER,
Secretary of the
County Probation Committee.

Shirehall,
Shrewsbury.

### URBAN DISTRICT COUNCIL OF BASILDON
(Population 80,000)

ASSISTANT Solicitor. Salary within range £835 p.a. to £1,165 p.a.; good opportunity for obtaining wide experience; housing accommodation available.

Applications, giving details of previous experience, etc., and names of two referees, must reach Clerk of the Council, Council Offices, Billericay, Essex, by November 30, 1959.